

8.425 Rental Housing – Standards.

- (1) Structural Integrity. Roofs, floors, walls, foundations and all other structural components shall be capable of resisting loads prescribed by the building code in effect at the time of construction.
- (2) Plumbing.
 - (a) Plumbing systems shall be maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions. The presence of significant visible mold may be a symptom of faulty plumbing, however, the presence of mold, by itself, is not a violation for purposes of sections 8.400 through 8.440 of this code.
 - (b) Repairs must be permanent rather than temporary and shall be through generally accepted plumbing methods. If significant visible mold results from faulty plumbing, repairs must include removing the mold, which may include mold on or in interior walls, sheetrock, insulation, floors, carpets or carpet backing.
- (3) Heating.
 - (a) A permanently installed heat source able to provide a room temperature of 68 degrees Fahrenheit three feet above the floor, measured in the approximate center of the room, in all habitable rooms. Portable space heaters shall not be used to achieve compliance with this section.
 - (b) All heating devices or appliances shall conform to applicable law at the time of installation.
 - (c) Ventilation for fuel-burning heating appliances shall be as required by the Mechanical Code at the time of installation.
- (4) Weatherproofing.
 - (a) Roof, exterior walls, windows and doors shall be maintained to prevent water intrusion into the building envelope which may cause damage to the structure or its contents or may adversely affect the health of an occupant. The presence of significant visible mold may be a symptom of faulty weatherproofing, however, the presence of mold, by itself, is not a violation for purposes of sections 8.400 through 8.440 of this code.
 - (b) Repairs must be permanent rather than temporary and shall be through generally accepted construction methods. If significant visible mold results from faulty weatherproofing, repairs must include removing the mold, which may include mold on or in interior walls, sheetrock, insulation, floors, carpets or carpet backing.
- (5) Security. Doors and windows leading into a dwelling unit must be equipped with locks and shall be maintained in a condition so as to restrict access into the dwelling unit.
- (6) Smoke detectors. Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector installed and maintained in accordance with the state building code,

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ORS 479.270, 479.275, and 479.285, and applicable rules of the State Fire Marshal.

(7) Interpretations.

- (a) The city manager is empowered to render interpretations of sections 8.400 through 8.440 of this code.
- (b) Such interpretations shall be consistent with the purpose of this code.

(Section 8.425 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2008; amended by Ordinance No. 20408, enacted May 27, 2008, effective June 30, 2008; to sunset December 31, 2011; and amended by Ordinance 20431, enacted April 27, 2009, effective May 29, 2009; and to sunset December 31, 2011.)

8.430 Rental Housing – Enforcement.

(1) Authority. The city manager may enforce all the provisions of sections 8.400 through 8.440 of this code.

(2) Complaint.

- (a) A complaint must be in writing and may be filed in person or by mail or fax.
- (b) A person who files a complaint must be a party to the current rental agreement covering the property in question or an agent of the party.
- (c) A complaint must include the following:
 - 1. Name of person filing the complaint and, if different, the name of the affected tenant. Complaints may not be submitted anonymously;
 - 2. Name of the owner or the owner's agent;
 - 3. Address of the dwelling unit with the alleged violation;
 - 4. A complete description of the alleged violation; and
 - 5. A copy of the written notice of the alleged code violation that has been sent by the tenant to the owner or the owner's agent
- (d) Complaints shall be processed by the city manager. The city manager shall adopt rules pursuant to section 2.019 of this code that specify the procedure to be followed in processing complaints. Before initiating an investigation under subsection (3) of this section, the city manager shall:
 - 1. Confirm that the complainant has standing to file a complaint;
 - 2. Confirm that the subject of the complaint could be a violation of this code;
 - 3. Confirm that the owner or the owner's agent has had ten days since mailing of the written notice by the tenant to respond to the complaint; and
 - 4. Provide notice to the owner or the owner's agent of the complaint per written procedures.

(3) Investigations.

- (a) The city manager shall initiate investigations only after completion of the process in subsection (2) of this section.
- (b) The city manager shall conduct an investigation to confirm the validity of the complaint.
- (c) If the city manager determines that the complaint is not valid, the case shall be closed and all parties notified.
- (d) If the city manager determines that the complaint is valid, the city manager shall issue a notice and order pursuant to subsection (5) of this section.

(4) Inspection and Right of Entry. When it may be necessary to inspect to enforce the provisions of sections 8.400 through 8.440 of this code, the city manager may enter the building or premises at reasonable times to inspect or to perform the duties imposed therein, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the city manager shall first make a reasonable effort to locate the owner, the owner's agent, or other person having charge or control of the building or premises and request entry. If entry is refused by the owner, the city manager shall have recourse to every remedy provided by law to secure entry, including issuance of administrative search warrants. If entry is refused by the tenant, the complaint may be dismissed and the case closed. The city shall provide notice to the owner or owner's agent not less than 24 hours prior to a scheduled inspection of the premises in order to afford the owner or landlord the opportunity to be present during the inspection.

(5) Notices and Orders.

- (a) For valid complaints, the city manager shall issue an order to the owner or the owner's agent. The notice and order shall include the following:
 - 1. Address and unit number if applicable;
 - 2. A statement that the city manager has found the premises to be in violation of section 8.425 of this code as alleged in the complaint;
 - 3. A description of the violation;
 - 4. A deadline for completing repairs of ten days, unless the city manager determines that the necessary repairs cannot be completed within the ten day period. If the city manager makes such a determination, the owner or owner's agent shall submit a compliance schedule acceptable to the city within ten days;
 - 5. A statement advising the owner or the owner's agent that if the required repairs are not completed by the deadline stated in the notice and order, the city manager may:
 - a. Issue an administrative civil penalty, or initiate a prosecution in municipal court, or both; and

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- b. Initiate action to recover all city costs associated with the processing of the complaint, investigation and the resolution of the issue.
- 6. A statement that the owner or the owner's agent may appeal the notice and order as specified in section 8.435 of this code; and;
- 7. The date after which a reinspection will be scheduled.
- (b) The city manager shall mail the order, and any amended or supplemental notice and order, to the tenant and to the owner or the owner's agent by first class mail.
- (6) Failure to Comply. Failure to comply with the notice and order issued under subsection (5) of this section by the specified date shall constitute a violation subject to the penalties contained in section 8.995 of this code.

(Section 8.430 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.435 Rental Housing – Appeals. Any owner or owner's agent upon whom an order is served under section 8.430 of this code shall have the right to appeal within the time and in the manner provided in section 2.021 of this code. The appeal must include the applicable fee.

(Section 8.435 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.440 Rental Housing – Registration and Fees.

- (1) All rental housing not excluded under 8.410(2) shall be registered with the city on a form and in a manner to be determined by the city manager.
- (2) For the purpose of offsetting the costs to the city associated with the enforcement of this code, the city manager, using the process contained in section 2.020 of this code, shall set an annual fee for each dwelling unit covered by a rental agreement.
- (3) The following unit types, while subject to the standards, enforcement procedures, and other requirements established in sections 8.400 through 8.440 of this code, shall be exempt from the fee payment requirements:
 - (a) Rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 60 percent of the Area Median Income; and
 - (b) Rentals that have been approved by the city for an exemption from property taxes pursuant to sections 2.910 to 2.922 and 2.937 to 2.940 of this code or that are recognized by the city as exempt from property taxes pursuant to ORS 307.092.
- (4) The owner or the owner's agent shall be responsible for paying the annual fee. The total annual fee shall be paid for any dwelling unit

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which is covered by this Rental Housing Code for any portion of that calendar year.

- (5)** For each month in which the annual fee is not paid by the date specified in the written notice of payment, a penalty shall be assessed to the owner or the owner's agent. The amount of the penalty shall be set by administrative rule by using the process contained in section 2.020 of this code.
- (6)** The city manager may initiate appropriate action to collect the fees due. All costs associated with these actions, including attorney fees, may be assessed to the owner or the owner's agent.

(Section 8.440 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

Swimming and Other Pools

8.905 **Swimming Pools - Fences or Walls.**

- (1) Every person in possession of land within a residential district, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool or other outside body of water designed or used for swimming, dipping or immersion purposes of a depth of more than 18 inches, shall maintain an enclosure on the lot and completely surrounding the pool or other body of water. The enclosure shall consist of a fence which, if constructed with woven wire, shall be of a pattern and type and, if built of wood, to be built of a vertical member type, such as to discourage children from climbing over. The enclosure must be acceptable to the building official. The enclosure may also consist of a wall not less than four feet in height above the underlying ground or base. All enclosures must be incapable of being crawled under, and sufficient to make the body of water inaccessible to small children, with openings, holes or gaps therein no larger than four inches in any dimension except for doors or gates. In the event a picket fence is used, the openings between the pickets shall not exceed four inches in width; provided, that a dwelling house or accessory building may be used as a part of an enclosure.
- (2) All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device installed at least 40 inches above the ground or base, capable of keeping such door or gate securely closed at all times when not in actual use; provided, however, that the door of any occupied dwelling forming any part of the enclosure herein-above required need not be so equipped.

(Section 8.905 amended by Ordinance No. 18449, enacted August 1, 1979, and amended by Ordinance No. 19413, enacted October 13, 1986.)

8.915 **Inapplicability of Sections.** Sections 8.895 and 8.905 shall not apply to public swimming pools and/or wading pools maintained and operated by the city.

(Section 8.915 amended by Ordinance 19413, enacted October 13, 1986.)

Urban Renewal Plan - Rehabilitation

8.950 Rehabilitation of Existing Structures.

- (1)** The Urban Renewal Agency of the City of Eugene and the building official together may modify the standards for an individual structure or use if they find and determine that all of the following conditions exist:
 - (a) The structure or use cannot feasibly be made to comply because of existing site use or other physical limitations;
 - (b) The reduction of such standards will not exert an adverse effect on the project area;
 - (c) To remain economical, life of such structure shall not be less than 30 years; and
 - (d) The reduction of such standards will not otherwise adversely affect the health, safety and welfare of the occupants or persons using the structure or the project area.
- (2)** Notwithstanding the provisions of subsection (1) of this section, no structure to be rehabilitated shall fail to comply with any applicable codes, ordinances, or statutes, relating to existing structures.
- (3)** All definitions, substantive and procedural requirements, and all penalties, civil or criminal, established by Chapter 8 of the Eugene Code, 1971, shall apply to and govern the rehabilitation of structures under this section.

(Section 8.950 added by Ordinance No. 17150, enacted August 12, 1974; amended by Ordinance No. 19413, enacted October 13, 1986; and Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003.)

8.980 Abatement. Any building, structure or building service equipment erected, constructed, enlarged, altered, repaired, moved, improved, converted or demolished, equipped, used, occupied or maintained contrary to the provisions of this chapter shall be and is hereby declared unlawful and a public nuisance, and may be abated as such.

(Section 8.980 added by Ordinance No. 19413, enacted October 13, 1986.)

8.985 Injunctive Relief. In addition to any other remedy or penalty available for enforcing the provisions of this chapter, the city manager may institute any administrative or judicial action to enjoin the violation of any provision of this chapter.

(Section 8.985 added by Ordinance No. 19413, enacted October 13, 1986.)

Enforcement and Penalties

8.990 **Penalties - General.**

- (1) A person who:
 - (a) Violates, or procures, aids or abets in the violation of any final order or determination concerning the application of a provision of any code adopted in this chapter; or
 - (b) Engages in or procures, aids or abets any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any code adopted in this chapter, or any other regulation issued thereunder without first having obtained the required permit, certificate or label or other formal authorization therefor, shall be subject to a civil penalty upon conviction thereof of not less than \$50, nor more than \$200 for a first offense. For a second offense committed within 12 months from the date that the first offense was committed, a penalty of not less than \$200, nor more than \$400. For a third offense committed within a 12-month period from the date the first offense was committed, the penalty shall be \$500. In the case of a continuing violation, every day's continuance of the violation is a separate violation.
- (2) The civil penalties imposed by this section are in addition to any other penalty or fee assessed by this chapter and to any other enforcement action authorized.

(Section 8.990 amended by Ordinance No. 19413, enacted October 13, 1986.)

8.995 **Penalties – Specific.**

- (1) A person who fails to comply with a notice and order issued under subsection (5) of section 8.430 of this code shall be subject to:
 - (a) An administrative civil penalty issued under section 2.018 of this code; and/or
 - (b) A fine imposed by municipal court in an amount not to exceed \$250 per violation.
- (2) Each day that a violation exists constitutes a separate violation for which an additional penalty may be assessed under subsection (1) of this section.

(Section 8.995 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)